

1-1 By: Lozano, Guillen (Senate Sponsor - Hughes) H.B. No. 2771
 1-2 (In the Senate - Received from the House April 23, 2019;
 1-3 May 6, 2019, read first time and referred to Committee on Natural
 1-4 Resources & Economic Development; May 9, 2019, reported adversely,
 1-5 with favorable Committee Substitute by the following vote: Yeas 8,
 1-6 Nays 3; May 9, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10		X		
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16		X		
1-17	X			
1-18	X			
1-19		X		

1-20 COMMITTEE SUBSTITUTE FOR H.B. No. 2771 By: Hughes

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the authority of the Texas Commission on Environmental
 1-24 Quality to issue permits for the discharge into water in this state
 1-25 of produced water, hydrostatic test water, and gas plant effluent
 1-26 resulting from certain oil and gas activities.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Section 26.131, Water Code, as effective until
 1-29 delegation of authority under the Resource Conservation and
 1-30 Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.) to the
 1-31 Railroad Commission of Texas, is amended by amending Subsections
 1-32 (a) and (b) and adding Subsection (d) to read as follows:

1-33 (a) Except as provided by this section, the [The] Railroad
 1-34 Commission of Texas is solely responsible for the control and
 1-35 disposition of waste and the abatement and prevention of pollution
 1-36 of surface and subsurface water resulting from:

1-37 (1) activities associated with the exploration,
 1-38 development, and production of oil or gas or geothermal resources,
 1-39 including:

1-40 (A) activities associated with the drilling of
 1-41 injection water source wells which penetrate the base of useable
 1-42 quality water;

1-43 (B) activities associated with the drilling of
 1-44 cathodic protection holes associated with the cathodic protection
 1-45 of wells and pipelines subject to the jurisdiction of the Railroad
 1-46 Commission of Texas;

1-47 (C) activities associated with gasoline plants,
 1-48 natural gas or natural gas liquids processing plants, pressure
 1-49 maintenance plants, or repressurizing plants;

1-50 (D) activities associated with any underground
 1-51 natural gas storage facility, provided the terms "natural gas" and
 1-52 "storage facility" shall have the meanings set out in Section
 1-53 91.173, Natural Resources Code;

1-54 (E) activities associated with any underground
 1-55 hydrocarbon storage facility, provided the terms "hydrocarbons"
 1-56 and "underground hydrocarbon storage facility" shall have the
 1-57 meanings set out in Section 91.201, Natural Resources Code; and

1-58 (F) activities associated with the storage,
 1-59 handling, reclamation, gathering, transportation, or distribution
 1-60 of oil or gas prior to the refining of such oil or prior to the use

2-1 of such gas in any manufacturing process or as a residential or
2-2 industrial fuel;

2-3 (2) except to the extent the activities are regulated
2-4 by the Texas Department of Health under Chapter 401, Health and
2-5 Safety Code, activities associated with uranium exploration
2-6 consisting of the disturbance of the surface or subsurface for the
2-7 purpose of or related to determining the location, quantity, or
2-8 quality of uranium ore; and

2-9 (3) any other activities regulated by the Railroad
2-10 Commission of Texas pursuant to Section 91.101, Natural Resources
2-11 Code.

2-12 (b) Except as provided by Subsection (d), the [The] Railroad
2-13 Commission of Texas may issue permits for the discharge of waste
2-14 resulting from the [these] activities described by Subsection (a),
2-15 and the discharge of waste into water in this state resulting from
2-16 those [these] activities must [shall] meet the water quality
2-17 standards established by the commission.

2-18 (d) The commission may issue permits for the discharge into
2-19 water in this state of produced water, hydrostatic test water, and
2-20 gas plant effluent resulting from the activities described by
2-21 Subsection (a) on delegation to the commission of NPDES authority
2-22 for those discharges. The discharge of produced water, hydrostatic
2-23 test water, and gas plant effluent into water in this state under
2-24 this subsection must meet the water quality standards established
2-25 by the commission.

2-26 SECTION 2. Section 26.131, Water Code, as effective on
2-27 delegation of authority under the Resource Conservation and
2-28 Recovery Act of 1976 (42 U.S.C. 6901 et seq.) to the Railroad
2-29 Commission of Texas, is amended to read as follows:

2-30 Sec. 26.131. DUTIES OF RAILROAD COMMISSION. (a) Except as
2-31 provided by this section, the [The] Railroad Commission of Texas is
2-32 solely responsible for the control and disposition of waste and the
2-33 abatement and prevention of pollution of surface and subsurface
2-34 water resulting from:

2-35 (1) activities associated with the exploration,
2-36 development, and production of oil or gas or geothermal resources,
2-37 including:

2-38 (A) activities associated with the drilling of
2-39 injection water source wells which penetrate the base of useable
2-40 quality water;

2-41 (B) activities associated with the drilling of
2-42 cathodic protection holes associated with the cathodic protection
2-43 of wells and pipelines subject to the jurisdiction of the Railroad
2-44 Commission of Texas;

2-45 (C) activities associated with gasoline plants,
2-46 natural gas or natural gas liquids processing plants, pressure
2-47 maintenance plants, or repressurizing plants;

2-48 (D) activities associated with any underground
2-49 natural gas storage facility, provided the terms "natural gas" and
2-50 "storage facility" shall have the meanings set out in Section
2-51 91.173, Natural Resources Code;

2-52 (E) activities associated with any underground
2-53 hydrocarbon storage facility, provided the terms "hydrocarbons"
2-54 and "underground hydrocarbon storage facility" shall have the
2-55 meanings set out in Section 91.201, Natural Resources Code; and

2-56 (F) activities associated with the storage,
2-57 handling, reclamation, gathering, transportation, or distribution
2-58 of oil or gas prior to the refining of such oil or prior to the use
2-59 of such gas in any manufacturing process or as a residential or
2-60 industrial fuel;

2-61 (2) except to the extent the activities are regulated
2-62 by the Texas Department of Health under Chapter 401, Health and
2-63 Safety Code, activities associated with uranium exploration
2-64 consisting of the disturbance of the surface or subsurface for the
2-65 purpose of or related to determining the location, quantity, or
2-66 quality of uranium ore; and

2-67 (3) any other activities regulated by the Railroad
2-68 Commission of Texas pursuant to Section 91.101, Natural Resources
2-69 Code.

3-1 (b) Except as provided by Subsection (c), the [The] Railroad
3-2 Commission of Texas may issue permits for the discharge of waste
3-3 resulting from the [these] activities described by Subsection (a),
3-4 and the discharge of waste into water in this state resulting from
3-5 those [these] activities must [shall] meet the water quality
3-6 standards established by the commission.

3-7 (c) The commission may issue permits for the discharge into
3-8 water in this state of produced water, hydrostatic test water, and
3-9 gas plant effluent resulting from the activities described by
3-10 Subsection (a) on delegation to the commission of NPDES authority
3-11 for those discharges. The discharge of produced water, hydrostatic
3-12 test water, and gas plant effluent into water in this state under
3-13 this subsection must meet the water quality standards established
3-14 by the commission.

3-15 SECTION 3. (a) In this section:

3-16 (1) "Commission" means the Texas Commission on
3-17 Environmental Quality.

3-18 (2) "NPDES" means National Pollutant Discharge
3-19 Elimination System.

3-20 (b) On delegation of NPDES permit authority for discharges
3-21 of produced water, hydrostatic test water, and gas plant effluent
3-22 to the commission by the United States Environmental Protection
3-23 Agency under Section 402(b) of the Federal Water Pollution Control
3-24 Act (33 U.S.C. Section 1342(b)), the following are transferred from
3-25 the Railroad Commission of Texas to the commission:

3-26 (1) the powers, duties, functions, programs, and
3-27 activities of the Railroad Commission of Texas relating to the
3-28 regulation of discharges of produced water, hydrostatic test water,
3-29 and gas plant effluent into water in this state, other than
3-30 discharges resulting from spills or other unplanned releases;

3-31 (2) any obligations and contracts of the Railroad
3-32 Commission of Texas that are directly related to implementing a
3-33 power, duty, function, program, or activity transferred under this
3-34 Act; and

3-35 (3) all property and records in the custody of the
3-36 Railroad Commission of Texas that are related to a power, duty,
3-37 function, program, or activity transferred under this Act.

3-38 (c) The Railroad Commission of Texas shall continue to carry
3-39 out its duties related to the regulation of discharges of produced
3-40 water, hydrostatic test water, and gas plant effluent into water in
3-41 this state until delegation of NPDES permit authority for
3-42 discharges of produced water, hydrostatic test water, and gas plant
3-43 effluent to the commission by the United States Environmental
3-44 Protection Agency under Section 402(b) of the Federal Water
3-45 Pollution Control Act (33 U.S.C. Section 1342(b)).

3-46 (d) The commission may carry out activities to ensure an
3-47 orderly transfer of the powers, duties, functions, programs, and
3-48 activities transferred under this Act, including hiring additional
3-49 employees and amending the memorandum of understanding by mutual
3-50 agreement with the Railroad Commission of Texas.

3-51 (e) Not later than September 1, 2020, the commission shall
3-52 submit to the United States Environmental Protection Agency for
3-53 approval a request to supplement or amend the Texas Pollutant
3-54 Discharge Elimination System program to include delegation of NPDES
3-55 permit authority for discharges of produced water, hydrostatic test
3-56 water, and gas plant effluent.

3-57 SECTION 4. The change in law made by this Act to Section
3-58 26.131, Water Code, applies to an application for an authorization
3-59 to discharge produced water, hydrostatic test water, or gas plant
3-60 effluent into water in this state that is pending on or after the
3-61 effective date of delegation of National Pollutant Discharge
3-62 Elimination System permit authority for discharges of produced
3-63 water, hydrostatic test water, and gas plant effluent to the Texas
3-64 Commission on Environmental Quality by the United States
3-65 Environmental Protection Agency under Section 402(b) of the Federal
3-66 Water Pollution Control Act (33 U.S.C. Section 1342(b)). An
3-67 application that is granted or denied in a final decision before the
3-68 effective date of such delegation is governed by the law as it
3-69 existed immediately before the effective date of such delegation,

4-1 and that law is continued in effect for that purpose.

4-2 SECTION 5. This Act takes effect September 1, 2019.

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